Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act	)	GN Docket No. 09-47
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Inquiry Concerning the Development of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act	)	GN Docket No. 09-137

<u>Comments – NBP Public Notice #19</u>

<u>The Nebraska Rural Independent Companies</u>

Dated: December 7, 2009

The Nebraska Rural Independent Companies

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EXECUTIVE SUMMARY

The Nebraska Rural Independent Telephone Companies ("Nebraska Companies") appreciate the opportunity to submit these comments. In these comments, the Nebraska Companies recommend a transition toward an integrated high-cost fund that will over time directly and explicitly support the delivery of broadband Internet access services to consumers. This integrated high-cost broadband fund would rest upon a foundation of three components: (a) better targeting of support; (b) determining the costs to be supported; and (c) accountability in the distribution of support. Moreover, the Nebraska Companies demonstrate that to ensure ubiquitous broadband Internet access service availability, the Commission should couple universal service support with a requirement that all providers of broadband Internet access service contribute to universal service mechanisms.

In responding to the Commission's inquiry regarding the high-cost USF funding mechanisms for broadband Internet access, the Nebraska Companies propose alternative approaches to calculating high-cost support -- specifically, an econometric model that factors into the support calculation actual construction and operating costs, as well as consumer income, broadband penetration rates and other factors influencing Internet Service Provider revenue. Without support for ongoing operational and maintenance expenses, rate-of-return carriers will neither be able to afford further deployment of broadband networks, nor will they have the resources to maintain their current networks.

Finally, the Nebraska Companies advise that there is a need to maintain Carrier of Last Resort ("COLR") policies within the context of this evolution of USF to ensure ubiquitous, reliable and high-quality broadband Internet access service. For this reason, COLR obligations must be factored into the calculation of a carrier's universal service support. Given the high cost

associated with providing broadband Internet access service and the additional costs of COLR obligations, the Commission should assign such obligation to one provider in rural, high-cost areas and provide increasing levels of universal service support for those obligations in those areas. The Commission should also ensure strong, but reasonable, oversight and accountability of recipients to ensure they are meeting such COLR obligations.

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The Nebraska Rural Independent Companies

The Nebraska Rural Independent Telephone Companies ("Nebraska Companies")[1] hereby submit these comments in the above-captioned proceeding. These comments are provided in response to the pleading cycle established in the National Broadband Plan Public Notice ("NBP") #19, released on November 13, 2009. The Nebraska Companies provide comments on the size of the Federal Universal Service Fund (referred to in these Comments as

[1] Companies submitting these collective comments include: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telcom, Inc., Consolidated Telephone Company, Curtis Telephone Co., Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom Inc., and Three River Telco.

"USF" or the "Fund"), the contribution methodology, transitioning the current Universal Service high-cost support mechanism to support advanced broadband deployment, the competitive landscape and high-cost funding oversight.

I. QUESTION 1: SIZE OF THE UNIVERSAL SERVICE FUND

To address issues relating to the Size of the Universal Service Fund, the Commission should first examine what is involved in repurposing the high-cost portion of the Universal Service Fund for explicit support of broadband Internet access services.

In the NBP Notice, the Commission inquires in Question 1(a) whether the relative size of funding for each support mechanism is appropriate to achieve universal deployment of broadband Internet access and, in Question 1(b), how any increases in a particular support mechanism should be achieved (*e.g.*, via reductions to other mechanisms). Before analyzing any potential give-and-take among the various universal service mechanisms, however, in order to resolve its question, the Commission should examine what would be involved in repurposing the high-cost portion of the Fund for explicit support of broadband Internet access services. After it is determined what such reform would look like and require, the Commission can address the question of whether the size of the high-cost fund relative to the low-income, schools and libraries, and rural health care support mechanisms is appropriate to meet the overarching objective of affordable and ubiquitous broadband Internet access services.

In another Public Notice on which comments are not yet due, the Commission has posed what the Nebraska Companies believe to be a central question -- how should the regulatory structure accommodate the evolution of communications to an Internet Protocol ("IP")-driven broadband network?[2] While this question applies broadly and to varying degrees across a larger policy framework, it is clear that the USF in particular must adapt to the requirements of a

[2] *See* "Comment Sought on Transition From Circuit-Switched Network to All-IP Network," NBP Public Notice #25, DA 09-2517 (rel. Dec. 1, 2009).

broadband-capable network. Certainly a reasonable transition is needed, as the Commission notes in this most recent Public Notice,[3] to ensure that "essential services" provided on the Public Switched Telephone Network ("PSTN") do not fail,[4] but the Commission should begin to plan for a future in which USF is focused on supporting the broadband Internet access services that will increasingly become the primary means of communications for Americans.[5]

The Commission's planning in this regard should begin with an examination of how to orient the high-cost portion of the USF to ensure direct support for broadband Internet access services. Today the high-cost mechanism is comprised of multiple components that tie largely to supporting specific PSTN elements and functions, such as loops, switching, and access services. To support the delivery of broadband Internet access services, the Nebraska Companies recommend an evolution toward an integrated high-cost fund that will over time directly and explicitly support the delivery of broadband Internet access services to all consumers – particularly those in very rural areas who do not have access to broadband. This integrated high-cost broadband fund would rest upon a foundation of three components: (a) ***better targeting*** of support (*i.e.*, funneling support on a more granular basis to those areas that truly need it to support *any* broadband Internet access service);[6] (b) ***determining the costs*** to be supported (*i.e.*, defining what kind of broadband Internet access should be delivered and identifying the total

[3] *See id.*

[4] Further thoughts on precisely what form this transition should take are addressed in Section 3 of these Comments.

[5] *See, e.g.*, Chairman Michael J. Copps, *Bringing Broadband to Rural America: Report on Rural Broadband Strategy* (May 22, 2009), at ¶¶ 1-3 (discussing importance of broadband access in ensuring that rural America is not left behind); Comments of Verizon and Verizon Wireless, "Access for All: It's Time to Ensure America's Broadband Future," GN Docket No. 09-51 (June 8, 2009), at 3 (describing the ways in which broadband services are assuming a "central role" in economic and political interactions); Comments of the National Telecommunications Cooperative Association ("NTCA"), GN Docket No. 09-51 (June 8, 2009), at 9-10 (advocating that the Commission consider broadband access a supported service for USF purposes).

[6] More specific discussion with respect to this targeting of support is provided in Section 3 of these Comments.

cost of delivering that broadband Internet access service to customers in such areas); and (c) ***accountability*** in the distribution of support (*i.e.*, tying receipt of support to an explicit obligation to deliver regulated broadband Internet access services to *all* users in such areas as a provider of last resort). The Commission should start by examining these foundational components to establish where and to what degree high-cost support is needed in connection with broadband Internet access services. In doing so, the Commission can then obtain the information needed to determine whether high-cost funding is adequately sized to achieve the objective of universal broadband.

Of course, other factors will affect the size of and any strains upon the high-cost mechanism and the potential need to shift funds within and between various USF mechanisms. For example, a substantial amount of existing high-cost support presently subsidizes operations in areas with multiple providers, and even with a cap on the amount of support drawn by competitive eligible telecommunications carriers ("CETCs"), the fact remains that CETCs receive over $1 billion per year to provide services without regard to their own costs of serving those areas or the fact that they are not the providers of last resort in serving such areas.[7] A more efficient use would be to target support toward those areas in which the costs of providing broadband Internet access are so high that no one would be able to provide such services affordably without support. Such a focus would certainly go a long way toward reducing strains on the high-cost portion of the Fund and promoting universal broadband.[8] Moreover, to the

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[7] *See High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service, Alltel Comms., Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, CC Docket No. 96-45, 23 FCC Rcd 8834 (2008), at ¶ 6 (describing the dramatic and "not sustainable" increase to $1.18 billion in CETC draws on support from the high-cost portion of the USF).

[8] *See* Section 3 for further discussion of the concept of a "Market Failure Area" and how it fits into the objective of ensuring that broadband is available to all Americans.

extent that the Commission were to determine that broadband Internet access services should be considered or could be treated as telecommunications services subject to Title II regulation (and thus eligible for high-cost support),[9] such a finding would presumably result in a corresponding new pool of contributions flowing into the Fund based upon broadband revenue assessments -- thereby reducing (or perhaps eliminating altogether) the need to shift support from or within other USF mechanisms. Thus, it is necessary to take such factors into account and to identify precisely where and in what ways a reformed high-cost fund would support broadband Internet access services before attempting to estimate what kind of strains, if any, such reform would place on the USF.

II. QUESTION 2: CONTRIBUTION METHODOLOGY

The justification for requiring interconnected VoIP providers to contribute to federal universal service applies with equal force to broadband Internet access providers.

In Section 2 of the Notice, the Commission invites comment on strategies for reforming universal service contributions. The Nebraska Companies believe the single most important USF contribution reform that the Commission should undertake in seeking to ensure ubiquitous broadband availability is to couple universal service support for broadband Internet access service providers with a requirement that ***all providers of broadband Internet access service must contribute to universal service mechanisms***. Such a step would reconcile Congress's goal that all Americans should have access to broadband[10] with the reality of high deployment and operating costs in certain parts of the nation and the policy principle that those who benefit from universal service should contribute to it. Such a contribution requirement would position the USF for long term stability in the face of declining, perhaps disappearing, contributions from

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9 *See* Section 3.A herein for further discussion relating to the regulation of broadband services.

10 *See* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009) (the "Recovery Act").

traditional, voice-oriented telecommunications service providers. And, as the Commission demonstrated in 2006, it already has the necessary statutory authority to require such contributions without further Congressional action.

In its *VoIP USF Order,* the Commission found that providers of interconnected VoIP service provide "telecommunications" because they provide *access to* the PSTN, either by relying on their own facilities or by using others' facilities, and *transmission of user information* necessarily occurs over such access facilities.[11] The Commission also found that because interconnected VoIP service permits users to place and receive calls to and from users of the PSTN, transmission *over* the PSTN is an integral part of interconnected VoIP service. Transmission is likewise an integral part of a user's ***access to*** the Internet as well as a user's ability to exchange data with a remote device ***over*** the Internet. And even if a broadband Internet access service provider may not provide transmission as a distinct service for a fee directly to the public, transmission itself – *e.g.*, between user and router at network's edge, or from one router to another within an Internet-constituent IP network – is nonetheless an essential, integral component of the finished service, without which "broadband Internet access" would have neither value nor utility.

The Commission further found interconnected VoIP service to be a jurisdictionally mixed service with an interstate component, and concluded that interconnected VoIP service providers are, therefore, "providers of interstate telecommunications" under Section 254(d) of the Communications Act of 1934, as amended (the "Act"). Like interconnected VoIP service, broadband Internet access service clearly contains an interstate component, and broadband

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11 *See Universal Service Contribution Methodology*, WC Docket No. 06-122, *et al.*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) ("*VoIP USF Order*"), at ¶41.

Internet access service providers are also therefore "providers of interstate telecommunications" under Section 254(d).

Finally, the Commission found it to be in the public interest to require providers of interconnected VoIP service to contribute to universal service, because such providers benefit from universal service through their interconnection with the PSTN. Similarly, both users and providers of broadband Internet access service benefit when more users have broadband access to the Internet, and such benefits justify a duty to contribute to the mechanism that facilitates such growth in broadband Internet users even where market forces can't succeed – *i.e.*, broadband universal service support.

The same justifications that caused the Commission to find that interconnected VoIP providers should contribute to the USF apply with equal, if not greater, force to broadband Internet access -- and pursuant to the legal path discussed further in the section that follows in connection with the transition to a broadband-oriented USF for distribution purposes, the Commission should also bring broadband Internet access services within the contribution base of the federal USF. Indeed, the Nebraska Companies submit that the Commission should consider an immediate modification so that all broadband Internet access services contribute to the USF, even as a transition is being made to allow for distribution of USF support in connection with such services. This will help to ensure that broadband Internet access services contribute in the near-term to support of the network used to reach broadband customers and to allow them to access such services.

III. QUESTION 3: TRANSITIONING THE CURRENT UNIVERSAL SERVICE HIGH-COST MECHANISM TO SUPPORT ADVANCED BROADBAND DEPLOYMENT.

A. The Commission has clear authority to include broadband Internet access within the list of supported services for Fund distribution purposes.

In Section 3 of the Notice, the Commission has sought comment on how it might reform the high-cost mechanism of the USF to advance broadband deployment. The Nebraska Companies welcome the Commission's attention to this important issue. Although the Commission and the Federal-State Joint Board have attempted to examine such matters in the past,[12] the Nebraska Companies are hopeful that the Congressional mandate of a National Broadband Plan that seeks to ensure "access to broadband capability" as a primary purpose will now spur completion of this essential work.[13]

Indeed, the Nebraska Companies believe that such reform is not only encouraged but required by both Section 254 of the Act and Section 706 of the Telecommunications Act of 1996. One of the statutory principles underpinning universal service is that "[a]ccess to advanced *telecommunications and information services* should be provided in all regions of the Nation."[14] Similarly, Section 706 mandates action to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."[15] USF support represents the linchpin to satisfying these objectives, particularly in areas where no reasonable business case can be made for deployment of broadband Internet access in the

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12 *See, e.g., High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board*, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477 (2007), at ¶¶ 12-15.

13 American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009) (the "Recovery Act"), at Div. B, Title VI, § 6001(k).

14 47 U.S.C. § 254(b)(2) (emphasis added).

15 Section 706 of the Telecommunications Act of 1996 has been codified as a note to 47 U.S.C. § 157.

foreseeable future and/or where the costs of providing broadband Internet access are so high that consumers almost certainly could not afford any deployed services absent support.

The Nebraska Companies expect that some may respond to this Public Notice by challenging the Commission's authority to include broadband Internet access within the list of supported services for USF purposes. Prior to delving into the specific questions posed with respect to USF transition, the Nebraska Companies therefore believe it is necessary to discuss the legal basis for such a transition. It is true that the Act limits the services for which USF support may be provided; "universal service" is defined in Section 254(c)(1) of the Act, as "an evolving level of *telecommunications services* that the [Commission] shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services."[16] Accordingly, the majority of USF support today is for only the provision of "telecommunications services"[17] -- a category that, because of prior regulatory determinations by the Commission, does ***not*** include broadband Internet access services.[18] Thus, even as Congress and the Commission have identified promotion of ubiquitous and affordable deployment of broadband as a top national priority, even as providers use USF support to upgrade their

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16 *Id.* at §254(c)(1) (emphasis added).

17 In 2007, nearly 62% of USF support came from the "high-cost" component of the fund, which supports only the provision of telecommunications services (and not broadband services) in high-cost areas. Moreover, nearly 12% of USF support supported purchases of telecommunications services (but not broadband access) by low-income consumers. Smaller USF components, such as the Schools and Libraries program and the Rural Health Care Pilot Project, support the procurement of broadband services by specific target customer bases. *See* 2008 Universal Service Monitoring Report, CC Docket Nos. 98-92 and 96-45, at Chart 1.1. The Commission has determined that sections 254(c)(3) and 254(h)(2)(A) authorize it to provide e-rate support for "additional services," including information services, to non-telecommunications carriers. *See also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997), at ¶¶ 29 and 37.

18 *See, e.g., Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities, Internet Over Cable Declaratory Ruling, Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, GN Docket No. 00-185 and CS Docket No. 02-52, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798 (2002); *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, CC Docket No. 02-33, *et al.*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14986 (2005); *Appropriate Regulatory Treatment for Broadband Access to the Internet over Wireless Networks*, WT Docket No. 07-53, Declaratory Ruling, 22 FCC Rcd 5901 (2007).

networks generally, even as consumers increasingly use broadband Internet access services to support their most basic communications with the "outside world,"[19] and even as Recovery Act funds are used in a "first step" to expand the reach of broadband networks,[20] nearly three-quarters of USF distributions today are not used to specifically support broadband Internet access services .

Similarly, ***contributions*** to the USF today are not based upon revenues received from the provision of broadband Internet access services. Pursuant to Section 254(d), each "telecommunications carrier that provides interstate telecommunications services" is required to contribute to the USF, and any "other provider of interstate telecommunications" may also be required to contribute if the Commission finds such contribution in the public interest.[21] The Commission has, to date, interpreted this provision to require contributions based upon end-user interstate (and international) *telecommunications service* revenues[22] Thus, providers generally are not required to contribute to USF today based upon any revenues received from the sale of *broadband* services such as DSL or cable modem access.[23]

Because the limitation on support of broadband services arises out of nothing more than a regulatory classification, however, the Commission has clear authority to include broadband

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19 *See* footnote 5 above.

20 *See Vice President Biden Launches Initiative to Bring Broadband, Jobs to More Americans*, White House Press Release, July 1, 2009 (available at: http://www.whitehouse.gov/the_press_office/Vice-President-Biden-Launches-Initiative-to-Bring-Broadband-Jobs-to-More-Americans/).

21 47 U.S.C. § 254(d).

22 *See* Form 499-A Instructions (2008), at 21-22. As noted above, the Commission has also required certain VoIP providers to contribute to USF pursuant to Section 254(d) on the basis that they are "providers of interstate telecommunications" and also pursuant to the Commission's ancillary jurisdiction under Title I. *See VoIP USF Order*, 21 FCC Rcd 7518, at ¶¶ 38-49.

23 Some companies have elected, however, to treat DSL services as a regulated service (*e.g.*, offered pursuant to tariff) under Title II of the Act, rather than treating DSL as an unregulated Title I information service. In those circumstances, the revenues received from sales of such regulated services are then treated as assessable for purposes of USF contribution.

Internet access within the list of supported services for USF distribution purposes.[24] Specifically, the Commission could and should revisit its prior determinations to classify broadband Internet access services as "information services" rather than as "telecommunications" or "telecommunications services." Indeed, Section 254 of the Act specifically contemplates -- and even demands -- as much as the migration to broadband Internet access services occurs; as noted above, universal service is defined in the Act as an "***evolving***" level of telecommunications services that the Commission "***shall***" revisit from time to time by reference to "advances in telecommunications and information technologies and services." The wisdom of Congress in building this evolutionary concept into the Act, and its directive to the Commission to re-examine such evolution periodically, fit the present circumstances perfectly -- as broadband Internet access increasingly becomes the primary platform for communications among citizens, now is the time to fulfill the mandate of Section 254 and to expand USF support to broadband Internet access services by finding they are properly considered telecommunications services, or telecommunications at a minimum.[25] As telecommunications services, broadband would then be eligible for support pursuant to Section 254 directly; as an alternative and at a minimum, the Commission could find that broadband Internet access services were "telecommunications," which if then treated as a "telecommunications service" by the provider in question would qualify that provider for the receipt of USF support.

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24 *See* 47 C.F.R. § 54.101.

25 The United States Supreme Court has confirmed that the Commission is authorized to interpret -- and is entitled to substantial deference in interpreting -- the classification of broadband services under the Act. *National Cable & Telecommunications Assn. v. Brand X Internet Services*, 545 U.S. 967, 980-82 (2005). The Supreme Court has also made clear that where an agency revises its own prior determinations, that decision remains well within the authority of the agency and is likewise entitled to deference, provided that the agency adequately explains its determination. *Id.* at 981-82. *See also FCC v. Fox Television Stations Inc.*, 556 U.S. ____, No. 07–582 slip op. 10-11 (April 28, 2009) (stating that the Commission need not demonstrate "to a court's satisfaction" that the new standard is "better" than the old one, *id.* at 11; instead, "it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better." *Id.* (emphasis in original).

Similarly, the Commission has ample authority to require *contributions* to the USF based upon revenues derived from the provision of broadband Internet access services. If the Commission were to classify broadband Internet access services as telecommunications services as described above, it would give rise to a corresponding requirement that broadband revenues (as telecommunications revenues) be assessed for purposes of USF contribution. Alternatively, even if the Commission were to determine only that broadband Internet access services were "telecommunications" (as opposed to telecommunications services), the Commission could then as it has in the past exercise its permissive authority pursuant to Section 254(d) and its ancillary authority under Title I of the Act to assess USF contributions on such services.[26] Classification of broadband Internet access services as telecommunications services or telecommunications for regulatory purposes could therefore result in broadband revenues being treated as assessable for federal USF contribution purposes as well.

This being said, the Nebraska Companies at the same time urge the Commission to resist arrogating to itself ***exclusive*** jurisdiction over broadband Internet access service. The Commission should take heed of Congress's prescription for multi-jurisdictional oversight of universal service mechanisms articulated in Section 254(b)(5):

> There should be specific, predictable and sufficient Federal *and State* mechanisms to preserve and advance universal service (emphasis added).

Thus, a finding that broadband Internet access service (as telecommunications or as a telecommunications service) has an interstate component as discussed above should not preclude

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[26] *See VoIP USF Order*, 21 FCC Rcd 7518, at ¶¶ 46-49 (deciding treat interconnected VoIP revenue as subject to USF contribution assessments pursuant to the Commission's ancillary authority under Title I of the Act).

states from pursuing their own strategies for developing state universal service programs to support broadband Internet access service, consistent with Sections 254(b)(5) and 254(f).[27]

Having established the statutory and regulatory basis for including broadband Internet access services within the scope of the USF program as described above, the Nebraska Companies now discuss the specific questions regarding this transition as posed by the Commission in its Public Notice.

B. The Commission should explore using alternative approaches to calculating high-cost support.

In Question 3(c), the Notice asks whether the size of any broadband funding mechanism would be appreciably different if support were calculated based on a forward-looking cost model designed to calculate the lowest total cost of ownership on a technology-neutral basis, as opposed to individual provider submission of actual costs.

As discussed in Section 1 above, it is difficult to provide specificity regarding the impact of reform on the size of the Fund prior to knowing what such reform will look like and achieve. But the Nebraska Companies note several factors that can help in addressing this issue. For instance, the answer to this question clearly depends on the nature of the cost model and, more importantly, the adequacy of support such a mechanism determines for broadband network providers in rural areas. Let us adopt the premise that a provider's high-cost universal service support should be equal to its costs in excess of its customer revenue – or, more precisely, the basic "support equation" as follows:

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[27] *See* Brief for Amici Curiae United States and Federal Communications Commission Supporting Appellants' Request for Reversal, Case No. 08-1764 (8th Cir., filed Aug. 5, 2008), at 12 (noting that a state's decision to require contributions to a state universal service fund based upon a methodology used to establish what portion of the revenues associated with that service are intrastate in nature does not frustrate any federal rule or policy).

Support = Cost – Revenue

where:

Cost = the provider's annualized capital cost plus operating cost of building and operating the network which the provider relies on to deliver USF-supported services

Revenue = the annualized customer revenue collected by the provider for its USF-supported services

AND where:

both Cost and Revenue can be either modeled or booked

Adoption of this "support equation" is but one aspect of an effective support mechanism. It is equally important to recognize –

(1) the fact that support mechanisms using booked cost and booked revenue, with rate-of-return caps, have produced positive results in terms of actual broadband deployment in very rural areas, and

(2) the relationship between the degree to which support funding is converted into broadband facilities in high-cost areas and the granularity of geographical targeting of support.

The stability offered by booked, cost-based support mechanisms to rural rate-of-return carriers is one important reason that broadband Internet access is more widely available in high-cost areas served by rural carriers than in high-cost areas served by non-rural carriers. In this regard, the Nebraska Companies note NTCA's October 22, 2009 *ex parte* presentation to members of the Commission's Broadband Task Force and the Wireline Competition Bureau,[28] which indicated that small rural carriers have achieved a much higher rate of first-generation broadband availability in the highest-cost, out-of-town areas compared with the availability offered in comparable out-of-town, rural areas for RBOCs and mid-sized carriers.[29] The booked-

[28] *See* NTCA Ex Parte Notice, GN Docket 09-51 (October 22, 2009) ("*NTCA Ex Parte*").

[29] *Id.*, at slide 13.

cost-based support mechanisms available to small rural carriers have provided the financial incentive needed for them to make the plant investment decisions that have in turn yielded broadband benefits for their customers – both in-town customers, for whom per-line costs exceed those in urban areas by only a factor of two or three, and out-of-town customers, for whom per-line costs exceed those in urban areas by ***one or more orders of magnitude***.[30] The small rural provider earns the same return on investment regardless of whether that investment is made inside a town or out in the countryside. Absent these mechanisms, far fewer homes and businesses in rural America would have access to broadband than is now the case.

In contrast, while the model-based support mechanism available to non-rural carriers may be *intended* for investments and operations in high-cost areas,[31] since from a normal business perspective it is more profitable to invest in an area with greater market potential (and lower costs), and since the mechanism lacks a clear financial incentive to invest in high-cost areas, the result is that non-rural carriers' broadband deployment is highly concentrated in relatively lower cost areas, leaving the high-cost areas served by non-rural carriers without adequate broadband facilities.[32]

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30 *Id.*, at slides 7 and 11.

31 *See* description of HCM (available on USAC's website at http://www.usac.org/hc/incumbent-carriers/step01/hc-model-support.aspx):

> "High Cost Model support keeps the cost for telephone service comparable in all areas (urban and rural) of a state. HCM support is distributed at the wire center level and is targeted to carriers serving wire centers with forward-looking costs that exceed the national benchmark.
>
> "HCM support is based on a forward-looking economic cost model. The model generates the statewide average cost per line, which is then compared to the national average cost per line to determine eligibility for forward-looking support. If the statewide average cost per line exceeds two standard deviations of the national average cost per line (the "national cost benchmark"), the state qualifies for HCM support. Support is provided for all intrastate costs per line that exceed the national benchmark."

32 *NTCA Ex Parte*, at slide 13.

Effective targeting of support to high-cost areas is another essential element in the design of a support mechanism that will convert support funding into broadband facilities in high-cost areas, regardless of the basis of the Cost term in the Support equation.

Factors such as –

(a) a limit on each provider's return on investment,

(b) the method by which broadband revenues are imputed, including, for example, which services' revenues are to be accounted for,

(c) accountability in terms of high-cost deployment requirements, with forfeiture of support if requirements are not met,

(d) whether and, if so, how support is to be made available to multiple providers in the same high-cost service area and

(e) the manner of specifying the high-cost areas that are to receive support

– are as important as the basis of the Cost determination in influencing the size of the high-cost fund. If the Commission is predisposed to considering a model as a high-cost mechanism, the Nebraska Companies urge the Commission to consider another approach to cost modeling and to geographic targeting of support.

The form of Question 3(c) of the Notice suggests that only two options for the basis of the cost term in the support equation are open for consideration – one that is calculated based on a forward-looking cost model and the other one based an individual provider submission of actual cost. The Nebraska Companies believe, however, that the Commission should explore a third, alternative approach to calculating high-cost support that is based neither on a forward-looking cost model nor on individual companies' booked costs – namely an ***econometric model*** based on:

- actual construction costs of broadband deployment projects completed in recent years; and

- actual operating costs of broadband ISPs (including Internet backbone and middle mile costs).

Specifically, the Nebraska Companies support the approach presented by NTCA in its October 22 ex parte meeting[33] to develop a high-cost support mechanism utilizing the "actual cost of providing service." Similar to the manner in which the Average Schedule settlements process of the National Exchange Carrier Association relies on statistical models of cost for small rural companies as a whole based on a sample of companies' costs, the Cost term in the Support equation of a broadband support mechanism could be based on a model that is itself derived from a sample of actual broadband construction projects subjected to econometric analysis for the purpose of identifying the statistically significant independent variables, such as household density, terrain, rockiness of soil, water table depth, climate, etc. The Nebraska Companies believe such an approach, if carefully pursued, has the potential to garner the confidence of large and small carriers alike and to produce meaningful cost estimates without excessive administrative overhead.

The Nebraska Companies also strongly agree with many of the points made in the *NTCA Ex Parte* regarding the geographical targeting of high-cost support. In particular, the Commission should recognize the true nature of, and the significance of the distinction between, high-cost and low-cost areas or, as the *NTCA Ex Parte* describes them –

- ***Competitive Market Areas (CMA)*** —Areas where market forces will promote broadband Internet access services at reasonable prices without universal service funding.
- ***Market Failure Areas (MFA)*** —Areas where market forces will NOT promote broadband Internet access services at reasonable prices without universal service funding.

[33] *See* note 30, infra (citing *NTCA Ex Parte*).

As further noted in the *NTCA Ex Parte*, the geographical units presently used to define market areas and to target high-cost support – *i.e.* states, MSAs, study areas, even exchanges and wire centers – fail to permit a clear demarcation between CMAs and MFAs, because they almost invariably include both.[34] The Nebraska Companies urge the Commission to adopt the CMA/MFA distinction as a fundamental cornerstone of its high-cost support architecture, and to implement it at a level of geographic granularity that will not undermine the very principle it embodies. The Nebraska Companies believe that CMAs and MFAs should be identified at the level of the census block – meaning that any individual census block that meets the criteria for a CMA becomes a part of an adjacent CMA. There should be no county-wide averaging, for example, nor averaging throughout a wire center, in the process of defining CMAs and MFAs. The results should be similar to those reached by the Nebraska Public Service Commission in defining "In-town support areas" and "Out-of-town support areas" in the course of developing the high cost support mechanism of its Nebraska Universal Service Fund.[35]

C. High-cost funding for broadband Internet access service should support both capital and operational expenses.

In its consideration of how to transition the current universal service high-cost support mechanism to support advanced broadband deployment, the Commission also seeks comment on whether USF broadband funding should support only a direct one-time reimbursement for new capital expenditures, or whether it should support both capital and operating expenses.

The Nebraska Companies believe that rate-of-return carriers will not risk capital deployment without assurances that they will also be able to receive support for operating their broadband networks and upgrading and maintaining those networks after they are deployed. The

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34 *NTCA Ex Parte*, at slide 7.

35 *See* Comments of the Nebraska Companies, GN Docket No. 09-51 (June 8, 2009), at 9.

Nebraska Companies therefore urge the Commission to consider supporting not only capital expenditures but also ongoing operational and maintenance expenses similar to the existing USF support mechanisms. At a time when the goal is not only universal broadband but also affordable and high quality broadband deployment, it is risky to support the deployment of broadband networks without also ensuring that those networks will continue to operate as desired by consumers and contemplated by the policymakers. There is no reason in transitioning toward a broadband-oriented USF to also make a wholesale change in the way in which support is delivered for the high-cost network that is the object of such support.

The Commission should also provide support for broadband access to the Internet where disparities exist between the total revenues received for such services and the amount required for ongoing operational and maintenance expenses. This is especially important in rural, sparsely populated areas that do not provide a market environment in which efficiencies could be achieved due to economies of scale as in more densely populated areas. To the contrary, in such geographic areas operational costs per customer could far exceed the operational costs per customer in urban areas. Rural carriers operating in high-cost areas perform the same administrative, operational, maintenance and customer service functions that companies in urban areas do without having the benefit of a wide customer base to pay for such functions. In order for carriers to have the incentive to make broadband Internet access service a reality for all Americans living in rural and high-cost areas, carriers must have sufficient and predictable funding for capital investment and ongoing operating and maintenance expense.

Finally, the Nebraska Companies also encourage the Commission to include expenses associated with middle mile and Internet backbone as part of its USF support mechanism. In rural areas, the middle mile and Internet backbone costs are much higher due to the distance these facilities must cover. The Nebraska Companies submit that Internet backbone and middle mile costs should be included in the definition of universal service and be required to be priced on costs. Although the cost for these services may be substantial in rural, high-cost areas, including them in the definition of universal service will ensure consumers in rural, high-cost areas receive broadband access to the Internet at rates comparable to those offered in urban areas.

D. The Commission should more narrowly target universal service support to smaller geographic areas.

The Nebraska Companies welcome the Commission's consideration in Question 3(g) of a broadband mechanism that would "more narrowly target universal service high-cost support to smaller geographic areas." As mentioned briefly above, qualification for support under the current components of the high-cost program is generally determined on a much broader basis, looking to exchanges and study areas that result in cities and towns being grouped with "out-of-town" areas -- even as the costs of serving "out-of-town" areas are often dramatically higher based upon factors such as population density, geography, and topography. A more targeted approach to assessing the need for and delivery of USF support would help to conserve USF resources, better manage the size of the Fund, and ensure that support flows primarily to those areas in which such support is truly needed.

To help illustrate this dynamic, some of the Nebraska Companies recently undertook an exercise to divide each state into "in-town" and "out-of-town" areas by county based upon 2000 Census data at the Census block level. The "in-town" areas identified through this effort had an average of more than 350 households per square mile, whereas the "out-of-town" areas had an average density of fewer than 5 households per square mile. Thus, the "out-of-town" areas identified through this analysis generally contain the hardest-to-reach and most "rural" of potential broadband subscribers. Assuming further, however, that broadband Internet access could reasonably be deployed in some of these "out-of-town" areas, certain census blocks in these areas were added back into the "in-town" category if: (a) the census block was within one-half of a mile of an "in-town" area; or (b) if the census block in question was within 2 miles of town, had a density of more than 15 households per square mile, and contained more than 20 households in total. Through this analysis, the Nebraska Companies determined that there are 3,300 to 5,300 "out-of-town" areas nationwide in which market forces -- specifically, the costs of delivering broadband and the unaffordable prices that would need to be charged to recover such costs -- would effectively deter even a single provider from deciding to deploy broadband Internet access services.[36] These are precisely the kind of "market failure areas" ("MFAs") that NTCA has discussed in connection with the development of a National Broadband Plan.[37] The Nebraska Companies therefore urge the Commission to adopt the "market failure area" concept proposed by NTCA, as the analysis discussed above confirms that a more granular approach to USF distribution based upon such an MFA framework will result in more efficient use of the Fund and more effective and affordable deployment of broadband Internet access services in the hardest-to-reach corners of the United States.

The Commission has also asked in connection with Question 3(g) whether the presence of one broadband provider should preclude support to any other provider. The Nebraska Companies believe that it is appropriate to support only a single provider in each MFA. These areas have been designated as MFAs precisely because market forces do not support the entry of even a single broadband provider without USF support. Funding redundant deployment in such an area will place strains on the Fund, with little, if any, benefit to consumers in that area -- and

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36 The range is driven by what kind of "benchmark" would be considered a measure of affordability for consumer broadband. Further details on this analysis can be found in the Ex Parte presentation of Great Plains Communications, Consolidated Companies, Furchtgott-Roth Economic Enterprises, and Parrish, Blessing, and Associates, December 3, 2009.

37 *See* Comments of NTCA, GN Docket No. 09-51 (June 8, 2009), at 10-14.

such funding of competitive operations could potentially deny the benefits of broadband altogether to consumers in certain MFAs because of the drain on the USF to support a second broadband provider in another MFA. Thus, support should only go to a single provider in each MFA, and certain obligations should vest in that provider as a condition for the receipt of such support. In particular, the recipient of USF support under this MFA framework must be required to accept Title II regulation of its broadband Internet access services,[38] must agree to incremental but meaningful deployment of broadband-capable technology within its network, and must accept effective "provider of last resort" duties to provide broadband Internet access to each and every household within the MFA.

IV. QUESTION 5: COMPETITIVE LANDSCAPE

In order to ensure ubiquitous, reliable and high-quality broadband Internet access service, the Commission should retain Carrier of Last Resort policies.

As indicated in Section 5 of the Notice, the Commission adopted a principle of competitive neutrality to guide its policymaking, concluding that universal service rules should neither unfairly advantage nor disadvantage one provider over another, and neither unfairly advantage nor disadvantage one technology over another.[39] As the Commission also states in the Notice, virtually all incumbent local exchange companies operating in rural high-cost areas have carrier of last resort (COLR) obligations for voice service, while other providers that are offering voice, video and/or broadband in such areas do not.

As the Commission appears to recognize in referring to the relative imposition of COLR duties as a "disparity," such duties can be costly, especially when they apply to providing service

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38 This presumes, of course, that the Commission has not already otherwise determined that all broadband services should be subject to Title II regulation as discussed elsewhere herein.

39 *See also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8801-8803, (1997), at ¶¶ 46-51 (subsequent history omitted).

to high-cost areas. However, this bilateral agreement between Incumbent Local Exchange Carriers and regulators has provided benefits to both COLRs and the public, and has resulted in the longevity, reliability, and affordability of COLRs' service. In particular, with the costly obligations of COLR status, COLRs receive a reasonable opportunity to recover their costs.[40] Just because competition may exist in some areas outside of MFAs does not mean that COLR policies are no longer needed altogether.[41]

To the contrary, the Nebraska Companies submit that there is a need to maintain COLR policies to ensure ubiquitous, reliable, and high-quality broadband Internet access service. In particular, a single broadband COLR is desirable for three reasons. First, a single COLR minimizes the total cost of service in high-cost areas since multiple carriers will not have additional costs associated with COLR obligations. Secondly, a single COLR avoids unreasonable growth in demands on the Fund and minimizes support to carriers that do not significantly advance the objectives of COLR policies. Finally, a single COLR recognizes the importance of carrier–to-carrier service currently provided by COLRs.[42]

In order to maintain the principle of competitive neutrality, COLR obligations must be factored into the calculation of universal service support for carriers operating in high-cost, rural areas. Such support must be calculated based upon the cost of facilities to provide the service and such support must not be portable on a per-line basis to non-COLR competitors. As stated in the previous paragraph, the Commission need not obligate all providers to have COLR responsibilities. Carriers that have COLR obligations are necessarily required to serve all end

40 *See* Bluhm, Peter, and Bernt, Phyllis, Ph.D., National Regulatory Research Institute. "Carriers of Last Resort: Updating a Traditional Doctrine." (July 2009) at iii.

41 *See id.* at v (discussing the continuing need for COLR obligations, even where competition may exist in certain areas).

42 *Id.* at 57.

users within a set geographic area, regardless of the cost of service. Therefore, those with COLR obligations will have higher costs compared to those carriers without such obligations. For this reason, the Nebraska Companies urge that future USF support be based on each individual carrier's cost of providing service. In so doing, those carriers with COLR obligations should necessarily recover the cost of such obligations and those without COLR requirements would not. It would not be competitively neutral if a carrier without COLR obligations receives support based upon the costs of a competitor that bears such responsibilities. In particular, CETCs should not receive the portable per line support of its COLR competitor, as it would provide a financial windfall to the CETC and may in fact induce a CETC to enter market areas that generally do not support entry of even a single broadband provider in order to garnish such windfall. The Commission should therefore assign COLR obligations to one provider of broadband Internet access service in each MFA, and provide universal service support sufficient for that provider specifically to meets its COLR obligations.

The Commission also seeks comment on whether the broadband plan should recommend that COLR obligations be removed or modified if any entity no longer is receiving universal service support. The requirement to fulfill COLR obligations without universal service support should not represent an economic hardship for a company that operates in a high density population center since it has a wide business and residential customer base over which to spread the costs of such obligation. While companies operating in urban areas are able to (should be able to) assume COLR obligations for broadband without support, rural companies operating in sparely populated areas do not have the economies of scale that would enable them to do so. The Nebraska Companies, therefore, recommend that COLR obligations not be removed for those entities operating in more densely populated areas, even if such carriers are no longer receiving universal service support.

Requiring all companies that accept universal service funding to assume some form of COLR obligation would unnecessarily increase the size of the USF. The Commission and the public would be better served to require one carrier to have COLR obligations in each service area and to base disbursements from the Fund on the COLR's costs of service.

COLR obligations are critical for ensuring provision of service in rural, insular, and high-cost areas. If an entity is going to receive the same level of high-cost support, a carrier should have the same COLR obligations in order to be competitively neutral. To the extent that entities receive compensation without assuming corresponding obligations, such entity receives a financial windfall which confers a competitive advantage relative to its COLR competitor.

As discussed above, universal service support for broadband should focus on areas where competition for broadband Internet access service cannot and will not exist and where providers cannot afford to offer such service without support. Areas that are uneconomic to serve should receive explicit USF support and such support should focus most specifically on the low density, high-cost areas outside of towns.

Long term sustainable support is crucial to meaningful COLR obligations. After construction, facilities must be maintained, operated, and upgraded. The need for additional capacity on the broadband networks will increase over time and middle mile and backbone costs increase with bandwidth. Given the high-cost associated with providing broadband and the additional cost of COLR obligations, the Commission should assign such obligation to one provider in rural, high-cost areas and provide increasing levels of universal service support for those obligations in those areas.

In this Notice, the Commission also sought input on the impact of requiring entities that accept universal service support for broadband to offer the underlying transmission on a common carrier basis. The Nebraska Companies agree that carriers that wish to receive universal service support should be required to offer the underlying transmission on a common carrier basis. Linking supplemental support for broadband access to the Internet to the provision of such service on a Title II common carriage basis will ensure affordable and comparable broadband Internet access service to all Americans while at the same time preventing fraud, waste and abuse of the USF support mechanisms as discussed further below.

V. QUESTION 6 – HIGH-COST FUNDING OVERSIGHT

A. The Commission should utilize existing regulatory structures to ensure oversight and accountability.

The Nebraska Companies believe it is imperative that receipt of universal service support be tied directly to the recipient of such support taking specific, measurable actions relating to broadband deployment. Simply tying USF support to very general standards such as a recipient's average costs or rate of return, for example, are not nearly specific enough to ensure the goals of universal broadband deployment.

Of course, the specific performance standards for recipients must be consistent with the ultimate goal of the broadband universal service program. Unless the United States is content to remain a second-tier country in terms of broadband availability, the national broadband plan should seek to achieve for most Americans the availability of broadband speeds of at least 20Mbps (over a reasonable period of time, of course). To achieve this goal, fiber to the home should be the ultimate objective. Recognizing that this is not a short term goal that can be achieved in just a couple of years, however, the universal service broadband program must be structured to provide direct incentives for the systematic replacement of existing copper facilities with fiber optic cable over time, and support also of the costs needed to support the continuing operation of those facilities to ensure the highest possible levels of service quality and performance for end users. For example, this could be achieved by providing incremental universal service support for each additional mile of fiber optic cable deployed in local distribution networks.

Furthermore, as discussed elsewhere herein, broadband universal service must be targeted to those specific areas which truly require universal service support. Universal service is a scarce and limited resource and can no longer be used as a tool to subsidize and artificially create competition. The current policy of using limited universal service funding to support services in areas which truly do not need universal service funding and to support multiple providers in areas which cannot economically or demographically support a ***single*** provider has led to the position of spiraling costs and contribution burdens in which we find ourselves today. The United States is falling behind other countries in broadband availability and facing out of control growth in the universal service fund. We have companies who solely build their financial plans based on how they can achieve the most universal service funding. This was never the purpose of universal service. The fund must get back to its intended purpose, the deployment of services in high cost areas. This is not a complicated proposition, but it unfortunately seems to have gotten lost in the rhetoric since the passage of the Telecommunications Act of 1996.

The Act now opens telecommunications markets to competition. As such, continuing the practice of looking at universal service needs on the basis of arbitrary exchange, study area, state-wide, or MSA boundaries—any of which necessarily entails geographic averaging at varying levels of aggregation—can no longer continue. In the fact, it is this type of analysis which has led us to the crisis in which we find ourselves today. The need for universal service must be based on the economics and demographics of a specific area. Taking averages over areas with significantly different economics and demographics gives an inaccurate picture of universal service requirements and leads to the inefficient use of universal service funds as seen in the current program. For example, nearly every ILEC exchange incorporates a city or a town, many of which are large urban areas, as well as the surrounding out-of-town areas, which have significantly different household density. Yet, the economics and demographics of serving in-town and out-of-town areas are dramatically different. Moreover, many in-town areas have a competing cable provider; yet, cable providers often do not venture outside towns and their immediate surrounding areas. The simple fact of introducing competition into a USF-supported market, even without providing support to the competitor can raise the cost of universal service within a given support area by 30% to 70%.[43] When the competitor receives support, this further increases the costs of universal service significantly in support areas. This policy of subsidizing competition can result in approximately 65% of universal service support being used to subsidize competition in areas with multiple providers rather than to deploy services in areas that do not have service.[44]

This inequity is only exacerbated when universal service support is based on even higher levels of aggregation, such as study areas, states, or MSAs. These levels of aggregation arguably permit companies to spend universal service support in dense, urban areas, as these areas may be included in the determination of a company's universal service support. Broad calculations make it very difficult for states in their periodic review of eligible telecommunications carrier status to penalize a company even though it is obvious that universal service support is not being used in high-cost areas.

A vital and necessary component of reforming universal service is that areas with significantly different economics and demographics cannot be grouped together or averaged. This distorts markets and has resulted in inefficient entry of companies into these markets. The best approach to ensure that subsidies are targeted to areas where they will actually be effective, and to monitor and ensure accountability in the use of USF funds, is to adopt more granular

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[43] This results from the fact that as customers no longer subscribe to services provided by the USF recipient, there is less customer revenue from which to recover the costs of providing ubiquitous services within a support area. Given the large fixed investment associated with providing telecommunications services, costs do not decrease significantly when a subscriber leaves the network, resulting in additional costs that need to be recovered instead through the USF.

[44] As discussed in the preceding footnote, the fixed costs of providing telecommunications services, together with the obligation to provide ubiquitous service in a given support area, can have a significant impact on the draw from USF where competition exists.

support markets and treat "in town" and "out-of-town" areas as separate markets for USF support purposes. The Nebraska Companies' density analysis, as described in Section 3 above, clearly demonstrates why this manner of separation is appropriate and necessary. This analysis shows that under a sufficiently disaggregated approach only about 4.5% of the nation's households are in areas in which universal service support is required. Targeting USF subsidies to these relatively few areas would greatly increase the effectiveness of the universal service program by providing greater resources where they are truly needed, while allowing more effective monitoring of how funds are being used and eliminating vast amounts of inefficient and wasteful spending.

B. The Commission should focus on not only financial reports, but also reports on broadband deployment itself, in tracking a recipient's progress.

The Nebraska Companies agree that financial transparency is important to the success of a universal broadband program so that the benefits can be readily shown. But, as we consider how to measure success, we must also remain mindful of our goals. The goal of broadband universal service is to achieve the ubiquitous availability of affordable broadband Internet access services at increasingly greater speeds, such as those available in many other countries. The best way to track progress in achieving these goals is to have companies report the availability and speed of their broadband Internet access services. Periodic reporting of deployment progress is more important than reporting of financial data. Further, the Commission may wish to consider minimum standards, which would increase over time, for the services that subsidy recipients must provide to their customers and with respect to which they must report. Given that the underlying action which must be taken is the continuing replacement of copper facilities in the local distribution network with fiber optic cable, obtaining yearly reports on companies' progress in this regard could well be relevant.

While review of financial information certainly may have a role in the broadband universal service program, it should not be the primary focus. Financial documentation is usually retained at total company level, which gives little insight into the deployment of broadband

Internet access services in individual high-cost areas. For many companies -- and particularly for larger firms -- financial results are largely driven by the revenues and costs in urban areas. As such, a company's earnings in urban areas, which do not require universal service support, can ultimately determine whether a company receives support in its out-of-town areas which needs support irrespective of whether a company is able to successfully compete in its urban areas. Such a result is nonsensical and represents a significant flaw in current universal service programs at both the federal and state levels.

Further, the Commission must be mindful of the burden involved in financial reporting, certification, auditing, and verification procedures. Recently, the OIG undertook a significant effort to audit rural companies. The audits, despite their significant expense to the nation's taxpayers, resulted in the identification of minimal violations at best. It seems certain that the expense occurred in conducting these audits must have significantly exceeded the savings that resulted. Accordingly, the focus should be on what the broadband universal service program service is really seeking to accomplish rather than on financial documents and audits which reveal little about the progress in reaching the nation's broadband goals.

VI. CONCLUSION

For the foregoing reasons, the Nebraska Companies respectfully request that the Commission adopt a National Broadband Plan that will support a transition toward USF support of broadband Internet access services, while also managing costs and ensuring accountability through reasonable but detailed COLR obligations on recipients of such support.

Dated: December 7, 2009.

THE NEBRASKA RURAL INDEPENDENT
TELEPHONE COMPANIES

Arlington Telephone Company,
The Blair Telephone Company,
Cambridge Telephone Company,
Clarks Telecommunications Co.,
Consolidated Telco, Inc.,
Consolidated Telcom, Inc.,
Consolidated Telephone Company,
Curtis Telephone Co.,
Eastern Nebraska Telephone Company,
Great Plains Communications, Inc.,
Hartington Telecommunications Co., Inc.,
Hershey Cooperative Telephone Co.,
K. & M Telephone Company, Inc.,
The Nebraska Central Telephone Company,
Northeast Nebraska Telephone Company,
Rock County Telephone Company,
Stanton Telecom Inc., and
Three River Telco

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